

App. Serial No.: 09/776,730  
Atty Docket No. HAR59 029  
Petition Under 37 C.F.R. 1.181(a)

## **EXHIBIT E**

Copy of the Petition and Declaration of Facts filed by Applicant's representative, along with a copy of the facsimile confirmation showing successful transmission to the USPTO on May 16, 2005.

# MESSAGE CONFIRMATION

MAY-16-2005 04:29 PM MON

FAX NUMBER : 416 971 6638  
NAME : DIMOCK STRATTON

NAME/NUMBER : \*223\*06630151\*15712730025  
PAGE : 29  
START TIME : MAY-16-2005 04:26PM MON  
ELAPSED TIME : 03' 52"  
MODE : STD ECM  
RESULTS : [ O.K ]

ENTERED MAY 16 2005



**DIMOCK STRATTON LLP**  
*Barristers and Solicitors • Patent and Trade-Mark Agents*

**FAX**

DATE: May 16, 2005

TO: NAME & FIRM	PHONE #	FAX #
Office of Petitions United States Patent and Trademark Office	1-571-272-3282	1-571-273-0025

FROM: Mark B. Eisen

OUR FILE: 663-151/MBE

TOTAL PAGES SENT (including this page): 29

Confirmation of facsimile to follow: ☐ Yes ☒ No, unless requested

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## NOTES:

Re: U.S. Patent Application No. 09/776,730

*Documents Enclosed: Petition Requesting Withdrawal of a Holding of Abandonment (in duplicate), Declaration of Mark B. Eisen, Copy of the Applicant's letter of February 3, 2005, Memorandum to File of June 15, 2004, Copy of the Applicant's letter of April 28, 2004 with enclosures, Copy of Response and Petition for Extension of Time filed January 9, 2004.*

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Tel: (416) 971-7202 Fax (416) 971-6638  
E-mail: firm@dimock.com • www.dimock.com



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*Barristers and Solicitors • Patent and Trade-Mark Agents*

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***Documents Enclosed: Petition Requesting Withdrawal of a Holding of Abandonment (in duplicate), Declaration of Mark B. Eisen, Copy of the Applicant's letter of February 3, 2005, Memorandum to File of June 15, 2004, Copy of the Applicant's letter of April 28, 2004 with enclosures, Copy of Response and Petition for Extension of Time filed January 9, 2004.***

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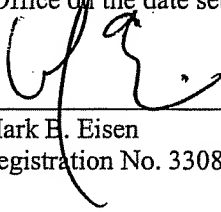
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Tel: (416) 971-7202 Fax (416) 971-6638  
E-mail: firm@dimock.com • www.dimock.com

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this document and the documents indicated as enclosed herewith are being sent by facsimile transmission to the United States Patent and Trademark Office on the date set forth below.

May 16, 2005

Date

  
\_\_\_\_\_  
Mark H. Eisen  
Registration No. 33088

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: David Duncan  
Application No.: 09/776,730  
Filed: February 6, 2001  
Art Unit: 2654  
Examiner: Angela A. Armstrong  
Title: METHOD AND APPARATUS FOR PACKING AND DECODING  
AUDIO AND OTHER DATA  
Attorney's Ref.: 663-151/MBE

Attention: Office of Petitions  
Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Window, **Mail Stop Petition**  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314  
U.S.A.

Dear Sir:

**PETITION UNDER 37 C.F.R. 1.181(a) REQUESTING  
WITHDRAWAL OF A HOLDING OF ABANDONMENT**

1. Applicant hereby petitions to withdraw the holding of abandonment dated March 1, 2005, for applicant's alleged failure to file a proper reply to the Official Letter dated August 11, 2003. The ground for this Petition is that applicant did in fact file a proper reply to the Official Letter dated August 11, 2003.

2. An Official Letter was mailed August 11, 2003, requiring a response by November 11, 2003. Applicant filed the response and Petition for Extension of Time of two months attached hereto, with Certificate of Facsimile Transmission, by facsimile transmission on January 9, 2004. Also attached is a copy of the facsimile cover sheet accompanying applicant's response, and the facsimile confirmation sheet showing the successful transmission of applicant's response on that date.

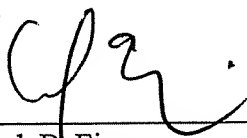
3. Applicant accordingly submits that the holding of abandonment is in error.

4. A Declaration of the undersigned attesting to the above facts accompanies this Petition.

The Commissioner is hereby authorized to charge any fees to our Deposit Account No. 500663. A duplicate copy of this Petition is enclosed if required for this purpose.

All of which is respectfully submitted.

Executed at Toronto, Ontario, Canada on May 16, 2005.

  
\_\_\_\_\_  
Mark B. Eisen  
Registration No. 33088  
Customer No. 38735

MBE:lf

Atts: Declaration of Mark B. Eisen with attachments  
Copy of Response and Petition for Extension of Time filed January 9, 2004

CERTIFICATE OF FACSIMILE TRANSMISSION

**COPY**

I hereby certify that this document and the documents indicated as enclosed herewith are being sent by facsimile transmission to the United States Patent and Trademark Office on the date set forth below.

May 16, 2005  
Date

\_\_\_\_\_  
Mark B. Eisen  
Registration No. 33088

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: David Duncan  
Application No.: 09/776,730  
Filed: February 6, 2001  
Art Unit: 2654  
Examiner: Angela A. Armstrong  
Title: METHOD AND APPARATUS FOR PACKING AND DECODING  
AUDIO AND OTHER DATA  
Attorney's Ref.: 663-151/MBE

Attention: Office of Petitions  
Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Window, Mail Stop Petition  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314  
U.S.A.

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2. An Official Letter was mailed August 11, 2003, requiring a response by November 11, 2003. Applicant filed the response and Petition for Extension of Time of two months attached hereto, with Certificate of Facsimile Transmission, by facsimile transmission on January 9, 2004. Also attached is a copy of the facsimile cover sheet accompanying applicant's response, and the facsimile confirmation sheet showing the successful transmission of applicant's response on that date.
3. Applicant accordingly submits that the holding of abandonment is in error.
4. A Declaration of the undersigned attesting to the above facts accompanies this Petition.

The Commissioner is hereby authorized to charge any fees to our Deposit Account No. 500663. A duplicate copy of this Petition is enclosed if required for this purpose.

All of which is respectfully submitted.

Executed at Toronto, Ontario, Canada on May 16, 2005.

Mark B. Eisen  
Registration No. 33088  
Customer No. 38735

MBE:If

Atts: Declaration of Mark B. Eisen with attachments  
Copy of Response and Petition for Extension of Time filed January 9, 2004

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.:	09/776,730	Filed:	February 6, 2001
Applicant:	David Duncan	Examiner:	Angela A. Armstrong
Art Unit:	2654	Attorney's Ref.:	663-151/MBE
Title:	METHOD AND APPARATUS FOR PACKING AND DECODING AUDIO AND OTHER DATA		

Commissioner for Patents  
U.S. Patent and Trademark Office  
Alexandria, VA 22314  
U.S.A.

Dear Sir:

**DECLARATION**

The undersigned being hereby warned that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such wilful false statements may jeopardize the validity of the application or any patent resulting therefrom, declares that:

1. The Applicant timely filed a proper reply to the Official Letter dated August 11, 2003.
2. An Official Letter was mailed August 11, 2003, requiring a response by November 11, 2003. The Applicant filed the response and Petition for Extension of Time of two months attached to the accompanying Petition to Withdraw a Holding of Abandonment ("the Petition"), with a duly executed Certificate of Facsimile Transmission, by facsimile transmission on January 9, 2004. Also attached to the Petition is a copy of the facsimile cover sheet accompanying the Applicant's response, and the facsimile confirmation sheet showing the successful transmission of the Applicant's response on that date.
3. I spoke to Examiner Patrick Edward on April 27, 2004, who called me to advise that no response had been filed. The undersigned advised Examiner Edward that a response had been filed, and the next day faxed to Examiner Edward's attention all the documentation that is attached to the accompanying Petition, under cover of a letter dated April 28, 2004. A copy of

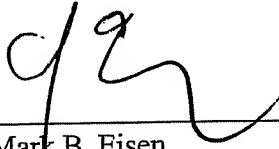


May 16, 2005

the Applicant's letter is attached to this Declaration along with a copy of the facsimile confirmation showing successful transmission to the PTO on that date.

4. No further communication was received until June 15, 2004, at which time Examiner Vijay Chawan called my office and spoke to my patent clerk Liz Forster, asking if I had filed a response. Ms. Forster advised Examiner Chawan that the response had been filed on January 2, 2004 and that a copy had been sent to Examiner Edward in response to his inquiry on April 28, 2004.
5. Examiner Chawan advised Ms. Forster that Examiner Chawan would call our office back if the response needed to be re-sent to the PTO. A copy of a Memorandum to File prepared by Ms. Forster on the day of the call from Examiner Chawan is attached.
6. I therefore understood that no further action in connection with the response would be required by the Applicant unless Examiner Chawan called back as indicated. Examiner Chawan never called my office back, and I thus verily believed that the Applicant's response had been located and was being processed. In fact, I filed a request on February 3, 2005, copy enclosed, requesting an indication of when further action would be taken.
7. The next action received in this application was Notice of Abandonment, which was received by my office on March 15, 2005.
8. All statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Executed at Toronto, Ontario, Canada on May 16, 2005.



---

Mark B. Eisen  
Registration No. 33088  
Customer No. 38735

MBE:lf

Att.: Copy of the Applicant's letter of February 3, 2005  
Memorandum to File dd. June 15, 2004  
Copy of the Applicant's letter of April 28, 2004 with enclosures



**DIMOCK STRATTON LLP**  
*Intellectual Property Law*

**MARK B. EISEN**  
Ext. 242  
meisen@dimock.com

*Certified by the Law Society as a Specialist  
in Intellectual Property (Patent) Law*

**SENT BY FACSIMILE (703) 746-9430**  
**PRIVILEGED & CONFIDENTIAL**

February 3, 2005

Commissioner for Patents  
U.S. Patent and Trademark Office  
Group Art Unit 2697  
2011 South Clark Place  
Crystal Plaza 2, Lobby, Room 1B03  
Arlington, VA 22202  
U.S.A.

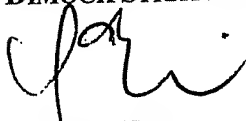
Dear Sirs:

**Re: United States Patent Application No. 09/776,730**  
**Title: METHOD AND APPARATUS FOR PACKING**  
**AND DECODING AUDIO AND OTHER DATA**  
**Applicant: Innovision Limited**  
**Our Ref.: 663-151/MBE**

Examiner Chawan telephoned on June 15, 2004, to confirm that we had filed a response to the non-final rejection mailed August 11, 2003. We confirmed that a response had been filed (with a petition for a two-month extension of time) on January 9, 2004, and this response was re-sent by facsimile on April 28, 2004, in response to a request from Examiner Lowe.

However, to date no further action has been taken in this file. Accordingly, please advise when we should expect to receive further action in this application.

Yours very truly,  
**DIMOCK STRATTON LLP**



**MARK B. EISEN**

MBE:vg

20 Queen Street West, Suite 3202, Box 102, Toronto, Ontario Canada M5H 3R3  
Tel: 416.971.7202 Fax: 416.971.6638  
E-mail: firm@dimock.com • www.dimock.com

---

## MEMO TO FILE

---

**DATE:** June 15, 2004  
**FILE:** 663-151/MBE  
**RE:** Response to Office Action dated August 11, 2003

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Examiner Vijay Chawan of the USPTO called today to ask if we had filed a response in this application. I advised her that we had originally filed the response with Examiner Lowe on January 9, 2004 by fax with a two-month extension of time and that we had re-sent it to the same fax number on April 28, 2004 in response to a telephone call from Patrick Edward of the USPTO saying that they had not received the fax.

She advised that the Examiner in charge of the file had left and that the file was put on her docket, but that when she checked the file it did not contain a response to the office action of Aug. 11/03. She also seemed surprised that the file had been put on her docket.

She said she will check into this matter and will call me if the response needs to be re-faxed.

Liz Forster

## MESSAGE CONFIRMATION

APR-28-2004 01:17 PM WED

FAX NUMBER :  
NAME : DIMOCK STRATTONNAME/NUMBER : \*223\*06630151\*17037469430  
PAGE : 11  
START TIME : APR-28-2004 01:14PM WED  
ELAPSED TIME : 03'06"  
MODE : STD ECM  
RESULTS : [ O.K ]**DIMOCK STRATTON CLARIZIO LLP**  
*Barristers and Solicitors • Patent and Trade-Mark Agents***FAX**

DATE: April 28, 2004

TO: NAME & FIRM	PHONE#	FAX#
Examiner Treffaney R. Lowe United States Patent and Trademark Office GROUP ART UNIT: 2697	1-703-305-5593	1-703-746-9430

FROM: Mark B. Eisen

OUR FILE: 663-151/MBE

TOTAL PAGES SENT (including this page): 11

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## NOTES:

**Re: U.S. Patent Application No. 09/776,730***Documents Enclosed: Confirmation of successful  
facsimile transmission, facsimile cover sheet, applicant's response  
dated January 9, 2004 (signature page in duplicate) with the Certificate of  
Facsimile Transmission, Petition for two month extension of time  
(in duplicate).*This fax may contain information which is confidential and privileged. If you are not  
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**DIMOCK STRATTON CLARIZIO LLP**  
*Barristers and Solicitors • Patent and Trade-Mark Agents*

**FAX**

DATE: April 28, 2004

TO: NAME & FIRM	PHONE #	FAX #
<b>Examiner Treffaney R. Lowe</b> United States Patent and Trademark Office GROUP ART UNIT: 2697	1-703-305-5593	<b>1-703-746-9430</b>

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**Re: U.S. Patent Application No. 09/776,730**

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facsimile transmission, facsimile cover sheet, applicant's response  
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**DIMOCK STRATTON LLP**  
*Intellectual Property Law*

**MARK B. EISEN**  
Ext. 242  
meisen@dimock.com

Certified by the Law Society as a Specialist  
in Intellectual Property (Patent) Law

**SENT BY FAX (703) 746-9430**

April 28, 2004

Commissioner for Patents  
U.S. Patent and Trademark Office  
2011 South Clark Place  
Crystal Plaza 2, Lobby, Room 1B03  
Arlington, VA 22202  
U.S.A.

**Attention: Examiner Treffaney R. Lowe**

Dear Sir:

**Re: United States Patent Application No. 09/776,730**  
**Filing Date: February 6, 2001**  
**Art Unit: 2697**  
**Title: METHOD AND APPARATUS FOR PACKING AND**  
**DECODING AUDIO AND OTHER DATA**  
**Applicant: Innovision Limited**  
**Our File: 663-151/MBE**

This is further to the telephone conversation between the undersigned and Mr. Patrick Edward on April 27, 2004, in which I was advised that no response had been received in reply to the Office Action dated August 11, 2003.

The applicant did timely file a response to the office action mailed August 11, 2003. The response was filed by facsimile on January 9, 2004 with a Petition for a two month extension of time for responding.

As proof thereof, I attach a copy of the applicant's response dated January 9, 2004 with the Certificate of Facsimile Transmission and the Petition for a two month extension; a copy of the facsimile cover page sent with the response; and a copy of the facsimile confirmation sheet confirming successful transmission of the Response, Petition and cover sheet on that date.

20 Queen Street West, Suite 3202, Box 102, Toronto, Ontario Canada M5H 3R3  
Tel: 416.971.7202 Fax: 416.971.6638  
E-mail: firm@dimock.com • www.dimock.com

Further action is therefore respectfully requested.

Yours very truly,  
**DIMOCK STRATTON LLP**

A handwritten signature in black ink, appearing to read 'Mark B. Eisen', written over the firm name.

MARK B. EISEN  
(Regn. No. 33,088)

MBE:lf

Encls.

# MESSAGE CONFIRMATION

JAN-09-2004 12:47 PM FRI

FAX NUMBER :  
NAME :

NAME/NUMBER : \*315\*06630151\*17037469430  
PAGE : 7  
START TIME : JAN-09-2004 12:45PM FRI  
ELAPSED TIME : 01'40"  
MODE : STD ECM  
RESULTS : [ O.K ]



**DIMOCK STRATTON CLARIZIO LLP**  
*Barristers and Solicitors • Patent and Trade-Mark Agents*

**FAX**

DATE: January 9, 2004

TO: NAME & FIRM	PHONE #	FAX #
Examiner Treffaney R. Lowe United States Patent and Trademark Office GROUP ART UNIT: 2697	1-703-305-5593	1-703-746-9430

FROM: Mark B. Eisen

OUR FILE: 663-151/MBE

TOTAL PAGES SENT (including this page): 7

Confirmation of facsimile to follow: ☐ Yes ☒ No, unless requested

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**NOTES:**

**Re: U.S. Patent Application No. 09/776,730**

*Documents Enclosed: Response to Office Action of  
August 11, 2003 (signature page in duplicate); Petition for 2 month  
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*Barristers and Solicitors • Patent and Trade-Mark Agents*

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/776,730  
Filing Date: February 6, 2001  
Applicant: Innovision Limited  
Title: METHOD AND APPARATUS FOR PACKING AND DECODING  
AUDIO AND OTHER DATA  
Examiner: Treffaney R. Lowe  
Attorney's Ref: 663-151/MBE

Commissioner of Patents  
U.S. Patent and Trademark Office  
2011 South Clark Place  
Crystal Plaza 2, Lobby, Room 1B03  
Arlington, VA 22202  
U.S.A.

Dear Sir:

PETITION FOR EXTENSION OF TIME

The applicant requests that the time for taking action in this case be extended pursuant to 37 CFR §1.135(a) for:

- |  |                                       |
|--|---------------------------------------|
| <input type="checkbox"/> one month             | <input type="checkbox"/> three months |
| <input checked="" type="checkbox"/> two months | <input type="checkbox"/> four months  |

The fee set in 37 CFR §1.17 for the extension of time is \$420.

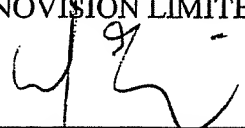
- ☐ Applicant is a small entity entitled to pay reduced fees in this application.
- ☐ Our check in the amount of \$ is enclosed.
- ☒ Fee of \$420. is to be charged to our Deposit Account No. 500663. A duplicate of this paper is enclosed.
- ☒ The Commissioner is authorized to charge any deficiency or credit any overpayment in the above fees to our Deposit Account No. 500663. A duplicate of this paper is enclosed if required for this purpose.

Also enclosed is a:

- ☒ Response      ☐ Notice of Appeal      ☐ Appeal Brief  
☐ Other: [provide details]

INNOVISION LIMITED

by

  
Mark B. Eisen  
Reg. No. 33088

Date: January 9, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/776,730  
Filing Date: February 6, 2001  
Applicant: Innovision Limited  
Title: METHOD AND APPARATUS FOR PACKING AND DECODING  
AUDIO AND OTHER DATA  
Examiner: Treffaney R. Lowe  
Attorney's Ref: 663-151/MBE

Commissioner of Patents  
U.S. Patent and Trademark Office  
2011 South Clark Place  
Crystal Plaza 2, Lobby, Room 1B03  
Arlington, VA 22202  
U.S.A.

COPY

Dear Sir:

PETITION FOR EXTENSION OF TIME

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- |  |                                       |
|--|---------------------------------------|
| <input type="checkbox"/> one month             | <input type="checkbox"/> three months |
| <input checked="" type="checkbox"/> two months | <input type="checkbox"/> four months  |

The fee set in 37 CFR §1.17 for the extension of time is \$420.

- ☐ Applicant is a small entity entitled to pay reduced fees in this application.
- ☐ Our check in the amount of \$ is enclosed.
- ☒ Fee of \$420. is to be charged to our Deposit Account No. 500663. A duplicate of this paper is enclosed.
- ☒ The Commissioner is authorized to charge any deficiency or credit any overpayment in the above fees to our Deposit Account No. 500663. A duplicate of this paper is enclosed if required for this purpose.

Also enclosed is a:

- |   |   |                                       |
|---|---|---------------------------------------|
| <input checked="" type="checkbox"/> Response      | <input type="checkbox"/> Notice of Appeal | <input type="checkbox"/> Appeal Brief |
| <input type="checkbox"/> Other: [provide details] |   |                                       |

INNOVISION LIMITED

by

Mark B. Eisen  
Reg. No. 33088

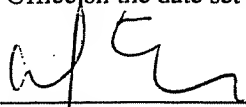
Date: January 9, 2004

CERTIFICATE OF FACSIMILE TRANSMISSION

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January 9, 2004

Date

  
\_\_\_\_\_  
Mark B. Eisen  
Registration No. 33088

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 09/776,730

Filing Date: February 6, 2001

Applicant: Innovision Limited

Title: METHOD AND APPARATUS  
FOR PACKING AND  
DECODING AUDIO AND  
OTHER DATA

Examiner: Treffaney R. Lowe

Attorney's Ref.: 663-151/MBE

**AMENDMENT**

In response to the Official Action  
Dated: August 11, 2003

Commissioner for Patents  
U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window, Mail Stop Non-Fee Amendment  
Crystal Plaza 2, Lobby, Room 1B03  
Arlington, VA 22202  
U.S.A.

Dear Sir:

REMARKS

The Examiner has rejected claims 1, 2 and 10 as being obvious based on Kopf in view of Fielder, and further in view of Warren. In respect of claim 1, the Examiner's position is that Fielder discloses steps a. and b., Warren teaches steps c. and e., and Kopf teaches step d. The applicant respectfully submits that there is no motivation for this combination, but it is not necessary to

rely on this to traverse the objection because Fielder does not teach steps a. and b. of the claimed method. In particular, Fielder does not teach providing one word in each compression packet with a **component** of configuration data, so that overall a compression block contains sufficient configuration information to identify the manner of packing data into the compression block.

The passage in Fielder cited by the Examiner, column 8, lines 41-43, teaches control data being generated for a control segment 270 that includes a synchronization pattern which allows decoders to synchronize to sequential frames. This has nothing to do with the manner of packing data into the frames, but rather provides synchronization information only. Equally important, the control data is not indicated as being merely "a component" of configuration data, which is read together with other components to identify the manner of packing the data.

In fact, Fielder specifically teaches away from this feature, stating that his process may be repeated for each block of the audio signal coded into a corresponding sequential frame of the data channel (col. 8, lines 49-52). There would be reason to repeat the process for each block of the audio signal, and in fact it would not be possible to repeat the process for each block of the audio signal, if Fielder generated *different* components of configuration data in each block. Fielder's system is redundant, and the repetition of the same configuration data in different blocks takes up space that could be used for other data.

According to the present invention, compressed audio and other data is packed into any available bits for an audio subframe in a way that the packing method used can be detected and decoded at the receiving station. Each word within a compression block (e.g. consisting of 48 compression packets) is provided with only a **component** of the configuration information. The packing methodology is decoded at the receiving end after the various components within the compression block have been read. In this manner, the redundancy inherent in systems like Fielder's is avoided, allowing more information to be packed into the remaining available bits; accommodating 16, 20 and 24 bit resolutions; and allowing for packing in a variety of formats, including different formats for different channels.

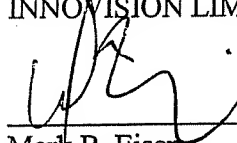
January 9, 2004

The applicant thus submits that claim 1 and 11 as presently written distinguish the invention over the cited prior art. Favourable reconsideration and allowance of this application are therefore respectfully requested.

A Petition for an Extension of Time requesting an extension of two months for filing the subject response is enclosed. The Commissioner is authorized to charge any deficiency or credit any overpayment in the fees for same to our Deposit Account No. 500663. A signed copy of this page is enclosed if required for this purpose.

Executed at Toronto, Ontario, Canada, on January 9, 2004.

INNOVISION LIMITED



Mark B. Eisen  
Registration No. 33088

MBE:jr  
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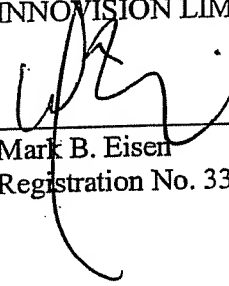
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**NOTES:**

**Re: U.S. Patent Application No. 09/776,730**

*Documents Enclosed: Response to Office Action of  
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20 Queen Street West, Suite 3202, Box 102, Toronto, Ontario Canada M5H 3R3  
Tel: (416) 971-7202 Fax (416) 971-6638  
E-mail: firm@dimock.com • www.dimock.com





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